

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:08CR3178
)	
v.)	
)	
LATRAIL L. TAYLOR,)	MEMORANDUM AND ORDER
)	
Defendant.)	
_____)	

Taylor has filed a Motion to Vacate under 28 U.S.C. § 2255 asserting that she was entitled to a mitigating role reduction at sentencing. After initial review,¹ I deny the motion and dismiss it with prejudice.

Simply stated, Taylor's motion is grossly out of time since the original judgment in this case was entered on August 29, 2011 (filing no. [217](#)) and her motion (filing no. [305](#)) was filed on August 5, 2016. [28 U.S.C. § 2255\(f\)](#). She has not shown any valid basis for excusing the untimely filing.

I note that I reduced her sentence under Amendment 782 on October 21, 2015. (Filing no. [292](#).) By that time, the one-year statute of limitations had long run out.

¹Rule 4(b) of the [Rules Governing Section 2255](#) Proceedings for the United States District Courts provides:

The judge who receives the motion must promptly examine it. If it plainly appears from the motion, any attached exhibits, and the record of prior proceedings that the moving party is not entitled to relief, the judge must dismiss the motion and direct the clerk to notify the moving party. If the motion is not dismissed, the judge must order the United States attorney to file an answer, motion, or other response within a fixed time, or to take other action the judge may order.

In any event, sentence reductions under retroactive Guideline amendments do not result in a new judgment for purposes of the statute of limitations. See [United States v. Jones, 796 F.3d 483, 485-487](#) (5th Cir. 2015) (reduction in sentence imposed on defendant convicted of possessing with intent to distribute cocaine base, based on change in the Sentencing Guidelines applicable to defendant's offense, did not result in new judgment but only in modification of an existing one).

IT IS ORDERED:

1. The Motion to Vacate under 28 U.S.C. § 2255 (filing no. [305](#)) is denied and dismissed with prejudice.
2. A separate judgment will be entered.
3. No certificate of appealability will be issued by the undersigned.

DATED this 16th day of September, 2016.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge